

## Meeting Minutes October 20, 2005

### Town of Los Altos Hills City Council Regular Meeting

Thursday, October 20, 2005 6:00 P.M.

Town Hall Council Chambers, 26379 Fremont Road

#### 1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Kerr called the City Council Regular Meeting to order at 6:08 p.m. in the Council Chambers at Town Hall.

Present: Mayor Breene Kerr, Mayor Pro Tem Dean Warshawsky (joined meeting at 10:20 p.m. participated in agenda items: 5.1-5.8, 6.1, 6.2, 7., 8., 9.2), Councilmember Craig A. T. Jones, Councilmember Jean Mordo and Councilmember Mike O'Malley

Absent: None

Staff: City Manager Maureen Cassingham, City Attorney Steve Mattas, Planning Director Carl Cahill, Administrative Services Director Sarah Ragsdale, Director of Public Works/City Engineer Henry Louie, Assistant Planner Brian Froelich, Public Safety Officer Steven Garcia and City Clerk Karen Jost

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Mordo and passed unanimously to limit the length of time for public comments to three minutes.

#### 2. APPOINTMENTS AND PRESENTATIONS

##### 2.1 Certificate of Commendation – Alexander Robert Wheatley

Certificate presented to Alexander Wheatley at an earlier time to accommodate his Eagle Scout Ceremony.

##### 2.2 Certificate of Commendation – Jordan David Epstein

Mayor Kerr presented a Certificate of Commendation to Jordan David Epstein in recognition of his success in attaining the rank of Eagle Scout. Council applauded Epstein for his accomplishment.

##### 2.3 Staff Briefing on Town Emergency Response/Palo Alto Area Red Cross on Self Sufficiency

Public Safety Officer Steven Garcia introduced this item to Council. He presented a PowerPoint presentation titled: "Presentation to the Los Altos Hills City Council on Town Emergency Response". Garcia emphasized that it was crucial that Town residents be responsible for themselves. It could take emergency responders 72 hours or longer to arrive and provide assistance. Residents should have personal and family plans in place for self sufficiency. Garcia explained the procedures that would be followed if the disaster occurred during business hours; during non-business hours; and the responsibilities of Town staff. The presentation also provided an overview of the Town's Emergency Operations Center (EOC) located in the Heritage House that included identification of its function, equipment, and security. The Heritage House is not available to the public and media when activated as the EOC. Garcia reviewed the procedural next steps in the Town's preparation for an emergency, specifically: train the City Council to activate the EOC and operate the emergency generator; continue emergency preparedness; and the collaborative training of residents with the American Red Cross.

Garcia introduced Rebecca Blitz, Palo Alto Area Red Cross. Blitz thanked Council and the Los Altos Hills community for their recent donation to the chapter to assist with expenses incurred during the Katrina Hurricane disaster. Blitz offered that it was key for citizens to be prepared and self sufficient in the event of a local disaster. She reviewed the five key actions in preparing for an emergency: 1) make a plan including a family contact person in a different location or region; 2) build a kit; 3) get trained (CPR, First Aid); volunteer; and, 5) give blood.

Councilmember Mordo suggested that Council needed additional training in the EOC operations. Garcia noted that he was confident that they would be able to operate the center with minimal training. He would review the equipment and operations manual with them at their convenience.

Council thanked Garcia and Blitz for their presentations.

### 3. PLANNING COMMISSION REPORT

Planning Director Carl Cahill reported that the Planning Commission had met on October 13<sup>th</sup> and reviewed and recommended approval of the Verizon cell phone antenna proposal to be located at Westwind Barn. Cahill noted that the project was scheduled to be considered by the City Council at their next meeting.

Cahill advised Council that traffic counts had been taken by the City of Palo Alto on Arastradero Road to determine if there were any feasible alternatives to the traffic signals proposed for the Mayfield Project. Palo Alto did not expect the results to be analyzed for at least a month or longer. Cahill would keep Council apprised of the status.

### 4. CONSENT CALENDAR

Items Removed: 4.2 (O'Malley) 4.3 (O'Malley) 4.7 (staff)

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Mordo and passed unanimously to approve the remainder of the Consent Calendar with Mayor Kerr abstaining on item 4.6 due to a potential conflict of interest, specifically:

- 4.1 Approval of Minutes: Regular City Council Meeting October 6, 2005
- 4.4 Resolution Approving Construction Change Orders for New Town Hall  
Reso #94-05
- 4.5 Resolution Approving Payment of Invoices for Audiovisual Equipment  
Reso #95-05
- 4.6 Resolution Accepting as Completed the Work on the New Town Hall Project, Authorizing Final Payment Concerning Such Work, Directing the City Clerk to File the Notice of Completion Reso # 96-05 (continued from 10-6-05)
- 4.8 Grant of Open Space Easements; Lands of Cohen; 13303 Wildcrest Drive  
Reso #97-05
- 4.9 Award of Contract: Geotechnical Investigation Service for Robleda Pathway Improvements Reso #98-05

Items Removed:

- 4.2 Review of Disbursements: 9/29/2005 – 10/12/2005 \$607,565.77

Councilmember O'Malley requested clarification on payments in the disbursement listing identified for construction of the new Town Hall. He questioned if the payments were the 10% retention held until satisfactory completion of the project. Administrative Services Director Sarah Ragsdale noted that O'Malley's interpretation was correct and added that the checks had not been issued pending Council action tonight.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Mordo with Mayor Kerr abstaining to unanimously approve item 4.2 Review of Disbursements.

- 4.3 Notification of Fast Track Approval: Lands of Sethruam; 27860 Fawn Creek Court; A request for a Site Development Permit for a 2,261 square foot basement under and existing 6,155 square foot residence (142-05-ZP-SD-GD)

Councilmember O'Malley requested clarification on the Fast Track approval of the project. He noted that the applicants appeared to be over their maximum MDA. Planning Director Carl Cahill advised that the applicants were demolishing their existing improvements and the project would have a net reduction in development area.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Mordo and passed unanimously to approve consent calendar item 4.3.

4.7 Consumer Price Index (CPI) Increase for Los Altos Garbage Company  
Reso #99-05

City Manager Maureen Cassingham explained that Council had before them the revised Attachment A to the report. The “New rates paid by LAH” had been amended.

Mayor Kerr noted that there would not be any increase in rates to residents. Cassingham concurred and explained that the CPI rate adjustment was provided for in the Town’s contract with the Los Altos Garbage Company. Staff recommended that the CPI increase not be passed on to resident customers.

Mayor Kerr questioned if there were any provisions in the contract for fuel rate fluctuations.

John Zirelli, Los Altos Garbage Company General Manager, responded that there were no adjustment provisions for fuel costs and consumption.

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by O’Malley and passed unanimously to approve consent calendar item 4.7 and adopt Resolution No. 99-05 “Approving the Annual Compensation Adjustments to Los Altos Garbage Company for Collection of Solid Waste, Recyclables and Yard Trimmings”.

5. UNFINISHED BUSINESS

5.1 Town Goals

5.1.1 Implementation of Strategic Conservation Goals

Considered as item 5.5.

Bringing Public Education Back to the Hills

Considered as item 9.2.

5.2 Underground Project Status Report

5.2.1 Consideration of Up-Front Electrical Design Costs

Director of Public Works/City Engineer Henry Louie explained that the electrical engineering design of the Underground Utility project for District Nos. 1A and 1B could be designed by consultants or by PG&E. He noted that reimbursement of the design cost by a consultant was not guaranteed under Rule 20A.

Mayor Pro Tem Warshawsky suggested that the Ad-Hoc Undergrounding Committee review the option of hiring a consultant to do the work at their next meeting and he would report back to Council.

Council concurred.

### 5.3 Update on General Plan Review

Councilmember O'Malley reported that the Ad-Hoc General Plan Committee had completed the review of the introduction and were in the process of reviewing the Land Use Element. He advised that the Committee upon completion of the process would provide Council with a copy of the General Plan with its original text and highlighted recommendations.

### 5.4 Improvement of Cell Phone Coverage in Los Altos Hills

Planning Director Carl Cahill reported that the temporary cell tower or "Cow" had been delivered to Town Hall and was being installed behind the Heritage House.

Council discussed the option of having a town-wide notice (post card) being sent to residents to advise them of a general discussion regarding improving cell phone coverage in Town at the next Council meeting and seeking their input on the issue. The discussion would be in conjunction with the Public Hearing on the Verizon application for a cell tower at Westwind Barn.

Council consensus was that the meeting notice would be a benefit to the residents. Council directed staff to send out a post card notice at first class rate advising the Town residents of the Council's general policy discussion on cell phone towers located on public sites at the November 3, 2005 meeting and soliciting their comments.

### 5.5 Energy Efficiency Ordinance Recommendations and Swimming Pool Guidelines – Environmental Initiatives Committee

Due to a potential conflict of interest because of his consulting services with a firm competing for a solar project in Town, Mayor Kerr recused himself from discussion of this item and stepped down from the dais.

Councilmember Jones, Co-Council Liaison to the Environmental Initiatives Committee, introduced this item to Council. He noted that the Committee had received input from Council and the public during their previous presentation of the proposed Energy Efficiency Ordinance at the September 15, 2005 Council meeting. The Committee had refined their recommendations accordingly. Jones introduced Committee Chair Peter Evans.

Evans presented a PowerPoint presentation to Council. He reviewed the Committee's revised proposal for the Energy Efficiency Ordinance that would require all new homes be EnergyStar Home certified or achieve a 15% better efficiency than basic requirements in Title 24 simulation. Photovoltaic systems would count toward the reduction. The proposal included a Photovoltaic (PV) incentive of one-to-one credit up to 500ft<sup>2</sup> for grid-tied PV systems. Regarding pools, the Committee recommended solar heating or thermal cover requirements and an incentive that 500 feet of heating-integrated hardscape be excluded from MDA totals. The Committee did not support imposing any additional requirements on pool pump efficiency and believed the State regulations were sufficient.

Evans explained that the revised proposal and incentives were responses to Council direction and public input during the earlier review. Evans advised that the context for the recommendations included the existing Title 24 regulations imposed by building codes and required by the Town and added that Marin, San Mateo and San Diego Counties and San Jose all had local building energy efficiency ordinances in place. The “Whole House Energy Consumption Estimate” that was proposed at the last Council meeting would require further research.

Council thanked Evans for his presentation and the Committee for their efforts in developing the framework for the Energy Efficiency Ordinance.

Councilmember Jones summarized the input that the Committee had received from Council and their efforts to incorporate the comments. He offered that the new proposal was reasonable, not unduly burdensome on the residents, based on a practical standard, flexible with choices, offered incentives and would put the Town in a leadership position.

Council discussion ensued. Council expressed concern with the MDA credits being used as incentives citing the potential misuse and effect on sloped/constrained lots. Planning Director Cahill offered that the incentive credit could be directed toward free standing solar arrays.

#### OPENED PUBLIC COMMENT

Sandy Humphries, Fremont Road, suggested that a MFA credit be considered for applicants using alternative building materials.

#### CLOSED PUBLIC COMMENT

Council consensus was to establish the following requirements for the proposed energy ordinance: all new homes be EnergyStar Home certified or achieve 15% better efficiency than basic requirements in Title 24 simulation; photovoltaic systems would count toward reductions and a one-to one MDA credit with a maximum of 500 feet would be given for grid-tiered PV systems with the portion of the PV system that was used to achieve the 15% efficiency not eligible for the MDA credit. Council agreed to defer pool requirements for future consideration and directed the Committee to revisit the issue and return to Council.

**MOTION SECONDED AND CARRIED:** Moved by O’Malley, seconded by Mordo and passed unanimously (Mayor Kerr abstained) to direct staff to move forward with a draft Energy Efficiency Ordinance as discussed.

Planning Director Cahill clarified that the proposal may be drafted as amendments to several existing ordinances including building and zoning.

#### 5.6 Approval of Recognition Plaques for Donor Wall Committee and Contributors from the Business Community

Council had before them layouts of the proposed plaques. Council suggested that the language on the contributors plaque be amended to read “Los Altos Hills Town Hall-Major Contributors from the Community.”

MOTION SECONDED AND CARRIED: Moved by Jones, seconded by Warshawsky and passed unanimously to approve the budget for the plaques, location and text as amended.

#### 5.7 Budget Presentation for 50<sup>th</sup> Anniversary Celebration Elements

Duffy Price, Ad-Hoc Historical Committee Chair, addressed Council. Council had before them a transmittal from Price titled “50<sup>th</sup> Anniversary Historical Display.” She explained that this was a supplemental report to the staff report on this item. Price reviewed the expenses with Council and requested that Council approve the expenditures as identified in her report in the amount of \$12,300 for activities to commemorate the 50<sup>th</sup> Anniversary of the Town’s incorporation. The Committee had removed from consideration the development of the historical calendar due to time constraints.

Council deferred to City Manager Cassingham for her input. Cassingham noted that the staff report had included a cost estimate range for each 50<sup>th</sup> Anniversary celebration item that had been proposed by the Community Relations Committee and Historical Display Ad Hoc Committee. The expenditure request from Price included the low end estimate per item only and a display revision budget of \$2,000.

Following a brief discussion, Council consensus was to approve the budgetary request from the Ad-Hoc Historical Committee for the 50<sup>th</sup> Anniversary Celebration.

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by O’Malley and passed unanimously to approve the additional budget request of the Ad-hoc Historical Committee for \$12,300 for a total approved not-to-exceed budget of \$26,800.

#### 5.8 Update on Year Round Riding Program Town Arena Facility at Westwind Barn

Item continued to November 3, 2005 Regular City Council meeting.

### 6. NEW BUSINESS

#### 6.1 Adoption of Resolution of Intention to Approve an Amendment to Contract between the Board of Administration of the California Public Employees’ Retirement System to Include 4<sup>th</sup> Level of 1959 Survivor Benefits for Miscellaneous Employees and Introduction and First Reading of Ordinance to Amend Contract

Administrative Services Director Sarah Ragsdale introduced the item to Council. She explained that by adoption of the Resolution of Intention to approve an amendment to the contract with CalPers to include the 4<sup>th</sup> level of the 1959 Survivor Benefits for

miscellaneous employees, the Town would reduce their exposure from the death of an employee by being included in a larger pool with other agencies. Ragsdale noted that the pool was superfunded at 139%.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Jones and passed unanimously to adopt Resolution #100-05 “Resolution of Intention to Approve an Amendment to Contract between the Board of Administration of the California Public Employees’ Retirement System to Include 4<sup>th</sup> Level of 1959 Survivor Benefits for Miscellaneous Employees.”

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Jones and passed unanimously to introduce Ordinance No. 441 authorizing an amendment to the contract between the Town and to Board of Administration of the California Public Employees’ Retirement System and to waive further reading.

6.2 Consideration of Actuarial Study for Postemployment Health Benefits for Town Staff

Following a brief discussion, Council concurred that obtaining an actuarial study to determine the long-term costs of the Town’s health benefits for retirees was a positive first step in understanding the issue.

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by Jones and passed unanimously to approve the Request for Proposals for actuarial consulting services.

7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

Councilmember O’Malley reported that a meeting had been scheduled for November 1, 2005 with the City of Los Altos to discuss the City’s Master Sewer Plan.

8. STAFF REPORTS

8.1 City Manager

8.2 City Attorney

8.3 City Clerk

8.3.1 Report on Council Correspondence

9. COUNCIL-INITIATED ITEMS

Mayor Kerr reordered the agenda to permit public comment.

9.1 Westwind Community Barn-A Proposal for Going Forward –  
Councilmember Mordo



Councilmember Mordo introduced this item by providing a brief biographical report of his affiliation with the Supporters of Westwind Barn and his interest in the facility. Mordo had prepared a PowerPoint presentation titled “Westwind Community Barn-A Proposal for Going Forward dated October 2005.”

Mordo reviewed his presentation with Council. The presentation included: Recent Changes; Current Issues – Control, Uses, Fiduciary, Restoration, Neighbors; Why Act Now ?; and an Outline of the Proposal. Mordo noted that currently there was a widely expressed desire for Westwind to benefit a wider community in the Town and opposition had been voiced against the Town spending funds that would benefit a small, special interest group. He noted that most boarders at Westwind were non-residents and that the Town had little control over the Barn other than the issuance of the required Conditional Use Permit or the renewal of the long term lease with Friends of Westwind.

Mordo advised that there were three components to his proposal and suggested that the most important factor was the new governance structure that he believed would provide a better balance over the control of the barn. The additional components were to broaden the range of activities at Westwind Barn to increase resident uses and the development of a facilities plan that would make room for new uses and prioritize a plan required for upgrades to the facility.

Mordo reviewed each of the three facets of his proposal. He displayed an organizational chart of the current governance of the Barn and a chart of his proposed governance by a five member Commission that would be appointed by the City Council to oversee the facility. The proposed Commission would include one or two Council Members and/or Planning Commissioners and be supplemented by non-voting advisors with extensive horse knowledge. Mordo identified the role of the Commission that included: negotiation and administration of the lease contract with Friends (audit the books and operations and approve the barn manager); allocate resources to the various users; set the rules and conditions for the use of the facilities; resolve any conflict between users and direct the restoration of the building. He reviewed the proposed role for the Friends of Westwind under the new governance.

Mordo displayed a current schematic of Westwind Barn and a schematic of the alternate use proposal that included a reduction of stalls with a conversion to meeting rooms and office space. He noted that there were concerns that the reduction of stalls would decrease the rental income and offered a financial feasibility chart as an illustration that an increase in rent could easily offset a smaller number of boarders. Mordo displayed pictures of comparable local stable facilities and their rental rates. He suggested that the current rent for Westwind was below the current market.

Mordo explained that the Proposed Commission could in the future provide fiduciary control over other Town assets that included the Little League Fields, Town riding ring, Heritage House, Purissima Hills Water District and additional town owned properties. He suggested that the Commission’s role would be to resolve issues related to their use and recommend capital expenditure for restoration and upkeep of the properties.

Mordo acknowledged that the Friends of Westwind had provided a commendable service to the community for the past twenty-eight years in operating the Barn and that the non-resident boarders had played an important role in keeping the barn financially viable. He noted that his proposal was not anti-nonresident but pro-resident. Mordo suggested that this was the opportune time to move forward with his proposal and establish the new governance body, offering that the Commission would be appointed by the current Council that had been supportive of Westwind Barn, often expressed interest in maintaining the rural nature of the Town and was sympathetic towards Open Space issues, adding that a future Council might not have the same priorities.

In conclusion, Mordo stated that by establishing the Commission, it would reflect that the Council cared about the Town's valuable assets that he believed had suffered from benign neglect and were proactive in making the best use of the properties for more residents. The new governance would preserve the properties for the future and provide more educational and recreational opportunities for the Town's residents.

#### Council Discussion:

Councilmember O'Malley explained that he took issue with several statements that had been made in the presentation, specifically: 1) he concurred that Westwind was a beautiful barn but he did not agree with the \$20 million dollar valuation of Westwind, noting that it was a landlocked facility; 2) regarding the financial feasibility analysis- O'Malley suggested that the rents were fair and that raising them could potentially create a loss of boarders and noted that if the reality was that the rents were below market value, Westwind would be inundated by boarding requests from more Los Altos Hills residents who have chosen to board their horses at other facilities; 3) currently residents had priority for renting stalls; and, 4) the proposed re-negotiation of the Lease with Friends for Westwind when Councilmember Mordo had previously supported a twenty year lease with Westwind during the lease discussions when the City Council ultimately approved a ten year lease. O'Malley added that Westwind Barn was used by numerous other programs including the Pony Club, 4-H Handicapped Riding Program, and the Town's Parks and Recreation Year Round Riding Program. This use factored into the rent for boarders because it was a contributing factor in access to the arena. O'Malley added that it was important the people who are familiar with horses run the facility.

Mayor Kerr commented that he admired Westwind but acknowledged his frustration in installing Town recreational programs at the Barn. He requested clarification from the City Attorney on what actions the Council could take tonight regarding the proposal.

City Attorney Mattas explained that Council could direct staff to return with amendments to the Town's Standing Committee resolution to formulate the Commission and its charter.

#### OPENED PUBLIC COMMENT

Zsuzsanna Molnar, Zappetini Court, addressed Council. She was a neighbor of Westwind Barn and boarded a horse at the facility. She thanked Councilmember Mordo for his focus on the Barn but noted that she disagreed with his interpretation of the users. She displayed several slides, adding that many children visit the barn and that 56% of the people who board and ride were residents. Molnar suggested that the majority of Los Altos Hills residents that boarded at Westwind (87%) opposed Mordo's proposal and provided a petition with signatures and addresses of same.

Jane Kawasaki, Fremont Road, presented several informational slides to Council. She identified current users of the Westwind arenas that included: 4-H Riding for the Handicapped; Pacific Ridge Pony Club; Year Round Riding Program and the boarders. Kawasaki reviewed the membership of each group as it related to residency and their usage of the arena. She reported that in 2004, 54 children participated in Westwind Horse Programs and the Fall YRRP 2005 currently had children waitlisted. Kawasaki concluded that with the addition of the new proposed arena, more children would be able to participate in Parks and Recreation Horse programs that eventually would be offered to adults.

Meike Petry, Page Mill Road, commented that the Westwind community had worked 25 years to maintain the Barn. She believed there were more Los Altos Hills residents using the facility than in previous years. This included more families and children. She did not support Councilmember Mordo's proposal and hoped Council would give the new plans to develop more programs through the Parks and Recreation Department a chance to succeed.

William Downey, DeBell, offered that he was not a horseman but did support additional funds being spent to refurbish and enhance Westwind Barn.

Steve Johnson, Parks and Recreation Committee member, requested that the Council permit the Committee to spend the appropriate time to review the proposal submitted by Councilmember Mordo at their November regular meeting.

John O'Connel, Elena Road, Friends of Westwind Barn Member and boarder at the Barn addressed Council. He offered that some of the points that were made during the presentation that spoke to problems at the barn were good but he did not understand how any of the proposed actions would be positive solutions. He did not believe rearranging the layout and eliminating stalls or making it a multi-use facility would make a positive change.

Rebecca Hickman, Purissima Road, Friends of Westwind Barn Member, commended Councilmember Mordo for his presentation and intentions but noted that she had several philosophical differences with the governance structure in the proposal. She offered that the Town currently had in place the tools to handle land use management issues, i.e. Planning Commission, City Council and Town Committees. Hickman believed the addition of another layer of bureaucracy would politicize the process.

Nick Dunkel, resident, neighbor of Westwind Barn commented that he enjoyed the barn but did not have a horse. He suggested that the Barn was visited by numerous residents

who do not have horses. He did not think it was appropriate to seek revenues from the Town's open spaces.

Non-resident noted that she trained and taught at Westwind Barn. Initially, she had been skeptical about the Year Round Riding Program especially with the earlier proposal to build a paddock in the lower area. She supported the new proposal to house the horses in the barn and build a dedicated arena. She opposed Councilmember Mordo's proposal.

Member of Supporters of Westwind Community Barn, acknowledged that she supported the idea to create a Commission to oversee the disparate groups that were involved with the Barn.

Jim Abraham, Los Altos Hills, supported Councilmember Mordo's proposal. He offered that the focus should be on utilizing the asset for the benefit of Los Altos Hills residents. He recommended that the Town consider a contract with a professional management company to manage the barn versus the Friends of Westwind. He suggested that Councilmembers identify their connections with Westwind Barn.

Itze Couperus, Page Mill Road, provided an overview of the gift of Westwind Barn to the community. He explained that many people have labored to save the asset and believed that an umbrella organization as proposed by Councilmember Mordo would widen the community's use of the treasured asset and ensure its future.

John Harpootlian, Anacapa Drive, suggested that Westwind Barn was an asset that was not being fully utilized for community activities. He offered that Councilmember Mordo's proposal did not add another layer of bureaucracy but would maximize the facility for use by the Town.

Jane Kawasaki, Fremont Road, explained that the Year Round Riding Program was developed to allow a wider spectrum of participants to use the facility. She offered that the Parks and Recreation Department serves the community of Los Altos Hills.

Dean Warshawsky, Councilmember, speaking as a member of the public, explained that Westwind Barn was an important part of why they moved to Town and a key reason why he campaigned for Council. He noted that he lived within 500 feet of the facility. Warshawsky agreed that there was tension among the stakeholders of the barn that revolved around who was going to get use of the facility. He suggested that the Year Round Riding Program be given an opportunity to grow and that the users come together to discuss the use of the barn in a positive way.

Carol Gottlieb, Summerhill, explained that historically the barn's use was for the horse community of Los Altos Hills. She did not support the reduction in the number of stalls, noting that there were very few places to board horses. Gottlieb offered that Westwind was a wonderful, unique, community asset.

Sandy Humphries, Fremont Road, commended Councilmember Mordo for his effort to find a solution to the problems at Westwind but suggested that the horses were the vital

and key element in the use of the Barn. She did not support Westwind Barn being used for other activities.

Val Metcalf, Tripoli Court, Parks and Recreation Committee Co-Chair, Westwind Barn neighbor, boarder and member of Supporters of Westwind Community Barn, explained that it was important to move forward with the master plan for the Barn. Metcalf suggested the formation of a short tenured committee to assist in the development of the master plan that could be used by the Supporters with their fundraising efforts. She supported the Barn remaining a horse boarding facility in addition to the Year Round Riding Program.

Michael Wagner, Robleda Court, noted that Westwind Barn was second only to Stanford as the most beautiful horse facility on the Peninsula. He believed the Barn as a Town asset was priceless. Wagner proposed that the Town ring be more utilized for Town riding programs.

Nancy Couperus, Page Mill Road, commented that Councilmember Mordo's proposal was an effort to solve an existing problem at the Barn that everyone had been attempting to address for many years. She believed the topography of the site and the current uses were both problematic. Couperus supported Mordo's plan to have a Commission work with all of the stakeholders, identify their needs and find a solution to the ongoing problem.

Dan Alexander, Elena Road, thanked Councilmember Mordo for his effort noting that this had opened the door for discussion. He believed that altering the governance of the Barn was not the right solution. He spoke to the many hours that were invested in the lease agreement process and believed that it would be a mistake to start over.

Susan Lam, Camino Hermoso, boarder at Westwind Barn, supported Councilmember Mordo's proposal and suggested that the Commission would provide the Town more oversight over the Town's assets, promote more access for Town residents to the facility and ensure the future of the barn.

Ginger Summit, Lenox Way, explained that she was not a horse person but loved the barn and horses. She supported the idea that the barn was a community asset for all residents and should be accessible to everyone.

Jolon Wagner, Robleda Court, stated that the barn was a beautiful facility and she appreciated the creativity of Councilmember Mordo's proposal. She would like the Town ring to have more attention and funding. Wagner did not believe Westwind was "community friendly" and would like more access to the facility for Town residents.

Stan Mok, Chapin Road, appreciated the efforts that Councilmember Mordo had put forth to develop his proposal. He believed that all of the Town's assets should be evaluated and their use should be maximized.

Bart Carey, Deerfield Drive, Planning Commissioner, stated that he believed that Councilmember Mordo's proposal for a governance structure had merit. He supported a

Commission charged with overseeing town-owned properties and responsible for their maintenance and use issues.

#### CLOSED PUBLIC COMMENT

Councilmember Mordo noted that the most important issue of his proposal was the establishment of a Commission to provide a change in governance for Westwind Barn.

Councilmember Jones thanked Councilmember Mordo for his proposal. He appreciated the creative and new way of thinking that had been suggested for approaching the issues at Westwind Barn. Jones lived near Byrne Preserve and was a frequent user of the site and embraced its current use as open space. He explained that his preference would be to support the efforts of the Parks and Recreation Department in implementing the Year Round Riding Program and to support the previous solution suggested by Councilmember O'Malley to board the program horses in the Barn and build a dedicated arena that could potentially expand the program for kids and adults. Jones suggested that it might be beneficial to form an advisory Committee with a wide-ranging membership to work with the City Council to design the master plan for the Barn renovation and uses. He believed development of the plan was a critical element in the fundraising efforts of the Supporters of Westwind Community Barn. Jones offered that a possible vehicle for addressing the issues would be the expansion of the Standing Parks and Recreation Committee's charter and membership.

Mayor Kerr voiced his concerns about the difficulties that the Parks and Recreation Department had encountered in developing the Year Round Riding Program at Westwind Barn. He supported moving forward with the proposal previously outlined by Councilmember O'Malley that included boarding the program horses in the Barn and the construction of a new arena. Kerr suggested that if it was not feasible for the Year Round Riding Program to coexist at Westwind Barn, the issue would be revisited. He noted that it was critical for recreational programs to be permitted to succeed.

Councilmember Mordo reiterated that his proposal was not about programs but about the structure of governance. He believed this needed to be addressed to solve the many issues between the factions at Westwind Barn.

Councilmember O'Malley commented that he did not believe that the new governance plan proposed by Councilmember Mordo would cure the problems at Westwind. He believed it was important for Council to hear and address the issues, similarly, if there was a problem at the Little League fields, it would be the Council's purview to resolve the issues.

Council consensus was to revisit Westwind Barn at a future meeting and measure the progress on the development of the strategic plan for the renovation of Westwind Barn and the status of the Year Round Riding Program. Council requested input from the Parks and Recreation Committee on the possible expansion of their authority to positively impact the use of Town properties for the benefit of Parks and Recreation programs for residents.

COUNCIL RECESSED 10:15 p.m.

COUNCIL RECONVENED TO OPEN SESSION 10:20 p.m.

9.2 Consideration of Request from Bullis Charter Foundation for Conceptual Approval of Allocation of Proceeds from Sale of Surplus Property near Storyhill Lane for Use in Acquisition of Property for Joint Use of a Charter School and Public Use and Recreation – Mayor Kerr

Councilmember Warshawsky joined the meeting (10:20 p.m.)

Mayor Kerr reordered the agenda to permit input from the public.

Chris Vargas, Bullis Charter Foundation Site Committee member, addressed Council. He introduced Committee-Co Chair Karla Jurvetson. Vargas presented a PowerPoint Presentation of his proposal to Council. He summarized his request that included: 1) approval of the sale of Town owned property at Story Hill Lane; and 2) allocation of the proceeds from the sale towards a site that would be used to permanently restore public education in Los Altos Hills and provide additional parks and recreational space. Vargas explained that contrary to recent press articles, the Bullis Charter Foundation was not requesting any funds from current Town reserves towards the project.

Vargas reviewed a current map of the Los Altos School District and Palo Alto Unified School District that showed the fourteen elementary schools within the two boundaries and reflected the current status in Los Altos Hills of none. He offered that it was critical for the Town to control the school to ensure the school's permanency. Vargas noted that the Town was the only municipality on the Peninsula without a public elementary school within its boundary. He reviewed statistics that showed residential property values in Town had declined in comparison to increases in surrounding communities since the closure of Bullis.

Vargas reviewed his suggested approach to returning a school to Los Altos Hills: 1) Bullis Charter Foundation would purchase land in Los Altos Hills using private donations; 2) the Foundation would commit to work with the Town to perform an EIR; 3) Funds from the Town would only be requested following successful completion of the EIR; and, 4) no funds from the current Town reserves would be used only funds from the sale of town owned property at Story Hill Lane.

Vargas offered that this proposal was a winning approach for all participants. The Charter School would have a home and the Town would increase its public space that could be used for education and recreational purposes.

In conclusion, Vargas requested that Council consider taking action to support in concept the allocation of the proceeds from the sale of the Story Hill Lane property toward a site in Town that could be used for the combined public school and parks and recreation space. He reiterated that allocation of funds would be subject to the completion of a successful EIR and contingent on the Bullis Charter School finding and purchasing an appropriate site.

Councilmember Mordo requested clarification on what the Town's funds would "buy". Vargas explained that it was an unknown until the site was identified. He acknowledged that the Town would have joint ownership with guaranteed access to the space and facilities.

Councilmember Jones noted that this was just the initial step at the conceptual level and that as the process proceeds and a site is identified there would be public hearings and numerous opportunities to review the proposal.

City Attorney Steve Mattas clarified that the City Council was reserving all of their decision making powers. Mattas noted that the Council would want to give consideration to conceptual approval of the process, including the potential allocation of the funds.

#### OPENED PUBLIC COMMENT

David Spector, St. Francis, Palo Alto Unified School District, commented that he believed schools were the glue of the community. He supported Council's approval of the request from the Bullis Charter Foundation. He offered that the community would benefit from the shared facilities.

Jill Jensen, Purissima Road, explained that it was important for the Council to take action and make a commitment to elicit control of a public school in Town.

Marvin Miller, Taaffe Road, believed this was a good opportunity for the Town to exchange a piece of unused property for a school.

Bullis Foundation Treasurer, commented that it was important for Council not to be swayed by the recent overtures of the Los Altos School District to reopen Bullis School as an elementary school because the necessary funds were not available. He urged the Council to support the "land swap" in principle and to partner with the Bullis Charter School for a creative solution to the problem.

#### CLOSED PUBLIC COMMENT

Council discussion ensued. Council thanked Bullis Charter School Foundation Site Committee and Bullis Charter School for their efforts. They concurred that bringing public education back to Los Altos Hills was critical to the health of the community and an important factor in property values. Council supported the exchange of a piece of property that had minimal value to the community for one that would support a school and recreational uses.

**MOTION SECONDED AND CARRIED:** Moved by Jones, seconded by Warshawsky and passed unanimously to approve in concept the allocation of proceeds from the sale of town-owned surplus property near Story Hill Lane for use in acquisition of property for joint use of a Charter School and public use and recreation. Final action would be dependent upon the successful completion of an EIR. The Mayor was authorized to draft and sign a letter on behalf of the Council to the Bullis Charter Foundation formalizing the Council's action.



## 10. PRESENTATIONS FROM THE FLOOR

Opened Presentations from the Floor

Closed Presentations from the Floor

## 11. PUBLIC HEARINGS

### 11.1 Annual Review of the Conditional Use Permit for Recreational Facilities at the Town's Athletic Fields and Riding Ring on Purissima Road (#58-04-CUP)

Planning Director Carl Cahill introduced this item to Council. He reported that the Planning Commission at their meeting on September 8, 2005, had unanimously recommended to extend the subject Conditional Use Permit. Cahill explained that the primary users of the facilities were the Los Altos/Los Altos Hills Little League, the Los Altos Hills Horsemen's Association and residents of the Town. No change was proposed to the existing buildings, structures or landscaping and no complaints had been received concerning the use of the fields within the past year.

OPENED PUBLIC HEARING

CLOSED PUBLIC HEARING

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Jones and passed unanimously to approve the annual review and extension of the Conditional Use Permit for the Town's parks and recreation facilities at 27500 Purissima Road.

COUNCIL RECESSED 7:50 p.m.

COUNCIL RECONVENED TO OPEN SESSION 7:55 p.m..

### 11.2 Appeal of Site Development Permit for a New Agricultural Building; Lands of Hitz, 26026 Scarff Way (#80-05-ZP-SD) (continued from 9-15-05)

City Council Ex Parte Contacts Policy Disclosures:

Mayor Kerr: visited site and met with applicant.

Mayor Pro Tem Warshawsky: absent

Councilmember Jones: did not visit site and had no contact with applicant.

Councilmember Mordo: visited site and spoke with applicant.

Councilmember O'Malley: visited site and spoke with applicant.

Planning Director Carl Cahill introduced project planner Brian Froelich, Assistant Planner.

Froelich provided an overview of the project to Council. As background, Froelich explained that the Planning Commission had approved the Site Development Permit request for the new 2,710 square foot agricultural accessory building on August 11, 2005. The proposed use of the building was to facilitate the acres of vineyards and apricot orchards on the property. On September 11, 2005, the approval was appealed by Mayor

Pro Tem Warshawsky pending a Pathways Committee recommendation. Subsequently, the Pathways Committee had met and had forwarded a recommendation to Council that included dedication of a ten foot wide off-road pathway easement and construction of a native path.

Froelich reviewed with Council the Municipal Code requirements pertaining to pathway easement dedications specific to development identified as habitable space and for cumulative additions of approved habitable floor area. Froelich noted that the project had 1,116 square feet of habitable floor area and that the cumulative additions of prior approved habitable floor area for the property exceeded 900 square feet.

Froelich displayed slides to familiarize the Council with the site and proposed pathway easement. The aerial slide of the property included: Lands of Hitz, Lands of Chang, Lands of Newhagen and Esther Clark Park along Scarff Way. Froelich explained that the Council's review would be focused on the southern boundary of the property. The parcel map slide identified existing pathway easements on the property and adjoining parcels. Froelich reviewed the Pathways Committee's recommendation for a ten-foot wide off-road easement to be constructed as a native path. He summarized the October 18, 2005 email from the applicant to Council that had outlined the applicants opposition to the Pathways Committee's recommendation, particularly the encroachment of the suggested path into their existing driveway. Hitz believed this approach had safety, security and privacy ramifications. Froelich concluded his introduction of the hearing item by noting that the current Master Path map and all previous map records had the specific goal of connecting Esther Clark Park via Scarff Way.

Councilmember Mordo requested clarification from City Attorney Steve Mattas on the Town's "right" to require the pathway easement for this project referencing the applicant's attorney's letter challenging the identification of the project as habitable space and using previous owner's projects as cumulative additions. Mattas offered that this was a unique circumstance. Staff was not aware of any historical examples of requests for easement dedications for similar projects (buildings identified by applicants as agricultural) however, he noted that Council should be aware that the large building included a bathroom, kitchen/cooking area and a space that could easily be converted into a bedroom.

Ginger Summit, Pathways Committee Chair, summarized the historical interest in constructing a path on Scarff Way to connect to Esther Clark Park. The Committee had recommended a ten foot easement for the project because of the existing vegetation (large trees). The Committee had also requested that the path be constructed as a "native" path by the applicants.

Linda Callan, Berliner Cohen, applicant's attorney, addressed Council. Callan referenced her letter to Council dated October 18, 2005. She summarized the applicant's position that the Town did not have a legal basis for the imposition of a pathway dedication for this project referencing her interpretation of the Municipal Code's definition of "habitable space". She suggested that the applicant would like to accept the site development permit as conditioned by the Planning Commission. She noted that the applicants did not believe it was appropriate to impose on current owners what had been

agreed to by the 1986 property owners but that her clients, the Hitz, were willing to honor this commitment. Callan offered that the proposed building's purpose was agricultural with a concrete, sloping floor with a drain. Callan concluded by summarizing her position that the Council did not have the authority to appeal the site development permit granted by the Planning Commission because it had no jurisdiction over a permit for an agricultural building. It was her opinion that it did not fall within the types of permits that the City Council could appeal.

Jerre Hitz, applicant, described the layout and functionality of the proposed building as an agricultural building. The building would support the vineyards and apricot orchards on the property. He reiterated that it was not habitable space and did not believe that it was an appropriate vehicle for requiring a pathway. Hitz referred to his correspondence to Council dated October 18, 2005 and cited his concern that the requested pathway easement would encroach onto his driveway and create security issues.

#### OPENED PUBLIC HEARING

Carol Gottlieb, Summerhill Avenue, explained that the General Plan Land Use Element states that agricultural buildings must be taken in "special consideration" and would therefore be appropriate for review by Council. She thanked the Hitz for offering to dedicate the 1986 easement that had never been recorded.

Les Earnest, Dianne Drive, noted that a path required a minimum of nine feet to permit equestrian passage. He suggested that the proposed ten feet requirement that was in addition to the five feet on the Chang property was requested to allow the path to "meander" through the existing trees.

Bart Carey, Planning Commissioner, offered that the Planning Commission was not aware of the Pathways requirement during their review of the application. He believed this validated the appeal of the project. Carey suggested that the applicant should have opposed the pathway during the Path Map review process and supported the Council requiring the dedication of the easement as designated on the Path Map.

Ginger Summit, Pathways Committee Chair, suggested that the definition of habitable space does not mean living space. She offered that this building was habitable with a kitchen and bathroom.

Linda Callan, Berliner Cohen, cited the Municipal Code's definition of habitable space as space that had to be intended for living purposes for human occupancy.

Jerre Hitz, applicant, offered into the record a letter from his neighbor Milton Chang.

#### CLOSED PUBLIC HEARING

Council discussion ensued.

Councilmember Mordo explained that if City Attorney Mattas advised that Council had the jurisdiction to review the appeal, he was comfortable with that ruling. He did not believe it was appropriate to reopen discussion of pathway easements that had been historically noted on the Path Map and approved on the 2005 version of the Path Map. Mordo expressed his concern that this could set a precedent. He added that he would be amenable to a compromise solution that would include a five foot dedication on the Hitz-Chang border from the Hitz with removal of the existing trees or the Pathways Committee's requested ten feet with no removal trees.

Councilmember O'Malley offered that the path map review had been extensive and lengthy and the referenced easement had been clearly shown as a connection into Esther Clark Park. However, he had reservations requiring a path that impacted three backyards when there was an alternate route close by. He noted that the path was redundant, the residents on the cul-de-sac did not support the path and there was no compelling reason for the path. O'Malley stated his concern was consistent with his position on pathways since he was elected to Council.

Councilmember Jones commented that he would prefer continuing the decision on the item to permit appropriate time to garner additional legal advice from the City Attorney regarding the interpretation of the complex legal issues of the appeal. O'Malley noted he could support the continuance which would also permit participation in the item by Mayor Pro Tem Warshawsky. O'Malley noted that Warshawsky was the Council liaison to the Pathways Committee and had initiated the appeal.

City Attorney Steve Mattas suggested that if the item was continued, he would prepare a confidential memo to Council reviewing the legal issues and Mayor Pro Tem Warshawsky would be required to familiarize himself with the proceedings to ensure due process to the applicant. Mattas explained that he believed the Council clearly had jurisdiction under the Municipal Code to review the issue but the interpretation issue of habitable space was the more complex issue because there was not a prior/past practice of a similar interpretation.

Mayor Kerr suggested that he could support the applicant's offer for dedication of the 1986 easement and collection of the pathway-in-lieu fees. It was his opinion that this would preserve the integrity of the Path Map, provide options for the future and was a practical solution.

For the record, the applicant's attorney stated that Council's acceptance of the compromise offer made by the applicant would "put the matter to rest".

City Attorney Mattas concurred that if the applicant agreed to the compromise on the record there would be no legal basis for a challenge to the action.

Mattas clarified that in terms of Council's decision setting a precedent regarding the Path Map, the issue that was dictating the uncertainty was the interpretation of habitable space.

The building was designated by the applicant as an agricultural building but could easily be converted to other uses.

Planning Director Carl Cahill reviewed the applicant's compromise proposal with Council that included dedication of the easement along a portion of the southern boundary of their property on the Newhagen border. Cahill suggested that Council's motion include payment of the pathways-in-lieu fee because the original approval had required the path be constructed by the applicant.

Linda Callon, Berliner Cohen, legal counsel for the applicant agreed on the record on behalf of the applicant that they would pay the path-in-lieu fee and dedicate the easement as shown on the PowerPoint slide map illustration titled "Existing Easement – Proposed by Owner".

**MOTION SECONDED AND CARRIED:** Moved by Jones, seconded by O'Malley and passed by the following voice vote: to grant the appeal and modify the project to require the applicant to dedicate a ten foot easement as shown on the map and proposed by the owner and to pay the pathway-in-lieu fee as calculated by the Town's normal standard and specifically as calculated by the City Engineer. Motion included approval of the Site Development Permit for project # 80-05-ZP-SD.

AYES: Mayor Kerr, Councilmember Jones and Councilmember O'Malley  
NOES: Councilmember Mordo  
ABSENT: Mayor Pro Tem Warshawsky  
ABSTAIN: None

Council adjourned to Closed Session at 12:14 a.m.

## 12. CLOSED SESSION

**CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION:** Government Code Section 54956.9(a): Campbell and Ligeti v. Town of Los Altos Hills

**CLOSED SESSION: CONFERENCE WITH REAL PROPERTY NEGOTIATORS**  
Property: APN 182-52-009  
Agency Negotiators: Craig Jones and Steve Mattas  
Negotiating Parties: None  
Under Negotiation: Price and Terms of Payment

Council Reconvened to Open Session at 12:22 a.m.  
No action was taken.

## 13. ADJOURNMENT

There being no further business, the meeting was adjourned by consensus of the Council at 12:23 a.m.

Respectfully submitted,

Karen Jost  
City Clerk

The minutes of the October 20, 2005 Regular City Council Meeting were approved as presented at the November 3, 2005 Regular City Council Meeting.